

Kathleen Sullivan (SBN 242261)
kathleensullivan@quinnemanuel.com
QUINN EMANUEL URQUHART &
SULLIVAN LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100

Sean S. Pak (SBN 219032)
seanpak@quinnemanuel.com
Amy H. Candido (SBN 237829)
amycandido@quinnemanuel.com
John M. Neukom (SBN 275887)
johnneukom@quinnemanuel.com.
QUINN EMANUEL URQUHART &
SULLIVAN LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Mark Tung (SBN 245782)
marktung@quinnemanuel.com
QUINN EMANUEL URQUHART &
SULLIVAN LLP
555 Twin Dolphin Drive, 5th Floor
Redwood Shores, CA 94065
Telephone: (650) 801-5000
Facsimile: (650) 801-5100

Attorneys for Plaintiff Cisco Systems, Inc.

Steven Cherny (*admitted pro hac vice*)
steven.cherny@kirkland.com
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Adam R. Alper (SBN 196834)
adam.alper@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, California 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Michael W. De Vries (SBN 211001)
michael.devries@kirkland.com
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, California 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF (PSG)

**DECLARATION OF ANDREW M.
HOLMES IN SUPPORT OF CISCO
SYSTEMS, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
CONFIDENTIAL INFORMATION IN
EXHIBITS TO CISCO SYSTEMS, INC.'S
OPPOSITION TO ARISTA'S MOTION
TO STAY**

DEMAND FOR JURY TRIAL

DECLARATION OF ANDREW M. HOLMES

I, Andrew Holmes, declare as follows:

1. I am an associate with the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of the matters set forth in this Declaration, and if called as a witness I would testify competently to those matters.

2. I make this declaration in support of Cisco’s Administrative Motion to File Under Seal Confidential Information in connection with Cisco’s Opposition to Arista’s Partially Unopposed Motion to Stay Patent Claims Pending *Inter Partes* Review. I make this declaration in accordance with Civil Local Rule 79-5(e) on behalf of Cisco to confirm that the information contained in the documents referenced in the Sealing Motion should be sealed.

3. Cisco’s Brief is non-dispositive. For pleadings attached to a non-dispositive motion, this Court has held that the party seeking sealing must provide “compelling reasons” to justify sealing. *See Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 415520, at *1 (N.D. Cal. Aug. 20, 2014). “Compelling reasons” exist to seal information that, if disclosed, would damage a party’s ability to compete in the marketplace. *See In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008). In addition, Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, that the document is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

4. Pursuant to Civil L.R. 79-5(e), Cisco requests to seal the document identified herein only because the information sought to be sealed has been designated by Defendant Arista Networks, Inc. (“Arista”) as “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY” under the Protective Order (Dkt. 53):

Document	Portions to Be Filed Under Seal
Ex. 1 to the Declaration of John Neukom in Support of Cisco's Opposition to Arista's Partially Unopposed Motion to Stay Patent Claims Pending <i>Inter Partes</i> Review	Entire
Ex. 2 to the Declaration of John Neukom in Support of Cisco's Opposition to Arista's Partially Unopposed Motion to Stay Patent Claims Pending <i>Inter Partes</i> Review	Entire

5. Exhibits 1 and 2 are copies of Cisco's infringement contentions. These infringement contentions contain pictures of and quotations from documents produced by Arista in this case, including Arista's highly confidential source code. Under the Stipulated Protective Order governing this litigation, Dkt. 53 at 6 fn. 1, Arista has designated these documents as "HIGHLY CONFIDENTIAL – SOURCE CODE" and/or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY."

6. Cisco will serve a copy of this declaration on Arista the same day it is filed. Cisco expects that Arista will file the required supporting declaration in accordance with Civil Local Rule 79-5(e), as necessary, to confirm that the information contained in the above-referenced documents should be sealed.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct, and that this declaration was executed in San Francisco, California,
3 on June 6, 2016.

4
5 /s/ Andrew M. Holmes
6 Andrew M. Holmes
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28